

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

UNITED STATES OF AMERICA,

v.

MATTHEW BROCK,

Defendant.

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**No. 1:06-CR-75-1
Judge Collier**

**GOVERNMENT’S RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION FOR
PERMIT TO TRAVEL FROM NORTHERN DISTRICT OF GEORGIA TO AND IN
THE EASTERN DISTRICT OF TENNESSEE WITHOUT PRIOR APPROVAL OF
PROBATION OFFICER**

The United States of America, by and through Gregg L. Sullivan, Acting United States Attorney for the Eastern District of Tennessee, pursuant to this Court’s Order of September 8, 2010 (Doc. No. 52), hereby responds in opposition to Defendant’s Motion for Permit to Travel from Northern District of Georgia to and in the Eastern District of Tennessee Without Prior Approval of Probation Officer (Doc. No. 49).

Defendant’s Motion should be denied because his difficulties regarding travel while under supervision of the United States Probation Office are of his own making as a result of his failure to abide by the instructions of his supervising Probation Officer. Alternatively, the United States respectfully requests that the Court hold Defendant’s Motion in abeyance pending hearing on a forthcoming petition for revocation of Defendant’s supervised release, which is currently being processed by the United States Probation Office. On numerous occasions before Defendant filed the instant Motion, he was advised by his supervising Probation Officer that he would be required to appear at a hearing for proposed revocation of his supervised release as a

result of his failure, among other things, to follow the instructions of his supervising Probation Officer and willful failure to pay restitution as ordered by his supervising Probation Officer.

On April 19, 2007, Defendant was sentenced to the custody of the Bureau of Prisons for a term of 37 months, to be followed by 5 years of supervised release, in connection with numerous counts of Bank Fraud in violation of 18 U.S.C. § 1344. Defendant was released from custody on April 17, 2009, to begin his term of supervised release. Because Defendant resided in the Northern District of Georgia and supervision was assigned to supervising Probation Officer Kathy Shields. While on supervised release, Defendant has been subject to the standard conditions of supervised release as well as certain special conditions.

On April 20, 2009, in the presence of his supervising Probation Officer, Defendant read and signed and was provided a copy of the district map advising him that his travel was restricted to the Northern District of Georgia. Because Defendant's residence was near to the Northern District of Alabama and the Eastern District of Tennessee, Defendant was given permission to travel 50 miles outside of the Georgia counties of Dade, Walker, Catoosa, and Whitfield for "normal" daily business, which was defined as 8:00 A.M. to 8:00 P.M. Any travel outside the district beyond the 50 miles or outside the time frame required a travel permit or authorization by the supervising Probation Officer.

Also on April 20, 2009, Defendant was instructed by his supervising Probation Officer to maintain a travel log and detailed listing of expenses each month to submit with his monthly report and income verification. Defendant has failed to submit truthful accounts of his travel and expenses. Defendant repeatedly has failed to abide by the instructions of his supervising Probation Officer regarding travel as well as other matters, especially his finances. On occasions

in June, July, and August 2009, Defendant was given permission to travel outside the district for family events and instructed to submit verification of his travel expenses, which Defendant has failed to do. Defendant has traveled outside the 50-mile radius on numerous occasions after 8:00 P.M. without notifying his Probation Officer, including August 6, 8, 14, 17, 21, 28, 29, and 30, 2009; September 1, 3, 4, 8, 10, 11, 18, 22, 24, 25, and 29, 2009; October 1, 2, and 9, 2009; October 9, 2009; and July 22 and 23, 2010. In addition to traveling outside of the permitted time frame, on numerous occasions Defendant has exceeded the permitted 50-mile radius, including August 12, 14, 28, and 29, 2009, and July 22 and 23, 2010. Notably, since Defendant was fired by his prior employer in late 2009, he has not provided phone records and travel logs to his supervising Probation Officer sufficient for her to track his travel, and his current employer has not been particularly cooperative with the supervising Probation Officer to provide information so that she can track his travel.

Most recently, on July 22 and 23, 2010, Defendant traveled at night to Rockwood, Tennessee, without notifying his supervising Probation Officer. Defendant's supervising Probation Officer followed Defendant and confronted him in Rockwood, Tennessee. She then revoked the 50-mile radius travel permission. This event apparently prompted the filing of the instant Motion.

Defendant's supervising Probation Officer has received reports of other travel outside the district by Defendant, but she has been unable to confirm the reports. Indeed, an August 7, 2010 press release by Defendant's employer states: "Matt Brock leads EcoPath's Southeast field

operations, handling new and established commercial accounts throughout North Carolina, South Carolina, Tennessee, Alabama, Georgia and Florida.”¹

WHEREFORE, the United States requests that the Court either deny Defendant’s Motion for Permit to Travel from Northern District of Georgia and in the Eastern District of Tennessee Without Prior Approval of Probation Officer or, in the alternative, hold the Motion in abeyance pending a determination on the forthcoming petition for revocation of Defendant’s supervised release.

Respectfully submitted,

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¹See <http://www.pr.com/press-release/253924> (last visited September 14, 2010).

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2010, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

s/James T. Brooks
JAMES T. BROOKS
Assistant United States Attorney